

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1377 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

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GUJARAT ELECTRICITY BOARD

Versus

MAHADEVBHAI DEVABHAI BHADJA

Appearance:

1. Civil Revision Application No. 1377 of 2000
MR AD OZA for Petitioner No. 1
MR BD KARIA for Respondent No. 1
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CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 08/08/2002

ORAL JUDGEMENT

This is a revision application filed under
Section 115 of the Code of Civil Procedure, 1908
challenging the order dated 21.12.2000 recorded by the
learned Civil Judge (SD), Morbi in Rajkot District below

application Exh.34 in Regular Civil Suit No.36/99 under which the learned trial Judge dismissed the said application of the petitioner. The petitioner herein is the plaintiff in the aforesaid Civil Suit. There the petitioner who is the plaintiff of the said suit submitted an said application Exh.34 which is annexed as Annexure 'B' to the petition. The petitioner requested the trial court that since the respondent herein has disputed his thumb mark in a document before the concerned court, the concerned court should refer the disputed thumb mark and admitted thumb mark of the respondent to a handwriting expert for opinion. After hearing the parties, the learned trial Judge found that this was not a good case for reference and, therefore, the said prayer was turned down. Hence this revision application.

2. I have heard the learned advocate for the petitioner and perused the papers. Certain grounds have been taken in the revision memo for challenging the said order of the learned trial Judge. However, the revision can be disposed of on a technical aspect.

3. Section 115 of the CPC has been amended by Amendment Act of 1999. Under the said amendment, the proviso of sub-section (1) of section 115 of the Code has been amended clause (b) has been deleted and clause (a) has been misread with the main proviso. As per the present text of the proviso, it is very clear that this court can exercise revisional jurisdiction only where the order impugned in the revision is such that if such an order was passed in favour of the petitioner-revisionist, then it would have terminated the suit or other proceedings.

4. The petitioner's application was only for reference of the thumb mark to the handwriting expert. Therefore, even if that application was allowed, the suit would not have been terminated. In other words, if the revision is allowed, the suit would not be terminated. In that view of the matter, when the proviso makes it clear that the court cannot entertain such a revision, then in that event, it is not open now for this court to entertain this revision. Therefore, considering the proviso to sub-section (i) of section 115 of the Code as amended by the Amending Act, 1999, this revision application will not be entertainable by this court and, therefore, it deserves to be dismissed.

5. For the foregoing reasons, this revision application is accordingly dismissed. Notice discharged.

No order as to costs. Interim relief granted earlier stands vacated. The trial court shall expedite the hearing of the suit since the suit is an old one and it is pending at the stage of hearing of arguments.

8.8.2002 [D P Buch, J.]

msp